

Message

---

**From:** Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]  
**Sent:** 9/28/2018 4:15:48 PM  
**To:** Neugeboren, Steven [Neugeboren.Steven@epa.gov]  
**CC:** Kupchan, Simma [Kupchan.Simma@epa.gov]; Carrie Wehling [Wehling.Carrie@epa.gov]; Wade, Alexis [Wade.Alexis@epa.gov]  
**Subject:** FW: Documents for Florida stakeholder meeting  
**Attachments:** fr66-11202 (Coordination MOA).pdf; image2018-08-06-205339.pdf; Marquette 6th Cir Opinion.pdf; Draft response to FDEP memo (083118 draft).docx; Response to FDEP memo (CHART) 0831018 (asw).docx; FL DA MOA 9.21.18.docx; FL EPA MOA 9.21.18.docx; Draft FL MOA btwn EPA FDEP Corps Services .docx; Draft FL MOA btwn EPA FDEP Corps Services (092118).docx; Potential ESA Compromise\_Analysis and Proposal.pdf; Agency Action Memo.pdf; SSEC-Doug-P18082810080.pdf; Or. Natural Res. Council v. Hallock\_ 2006 U.S. Dist. LE.PDF; American Forest & Paper Ass'n v. United States EPA\_ 137.PDF

To save Alexis some time, here's what I provided to Dave yesterday.

**David Fotouhi**

Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

---

**From:** Fotouhi, David  
**Sent:** Thursday, September 27, 2018 12:56 PM  
**To:** Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Ross, David P <ross.davidp@epa.gov>  
**Cc:** Carla Veney <Veney.Carla@epa.gov>; Penman, Crystal <Penman.Crystal@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>  
**Subject:** Documents for Florida stakeholder meeting

Per Matt's request, attached to this email are a few background documents in anticipation of our stakeholder call tomorrow:

- Flow-chart of Florida's proposed approach
- Marquette County (6th Cir) opinion
- First white paper from Florida regarding Florida 404 assumption beginning "Questions have been raised . . ."  
(undated)
- White paper from Florida titled "Florida's Assumption of the 404 Program; Endangered Special Act Review"  
(Sept. 17)
- White paper from Florida titled "Potential ESA compromise analysis and proposal" (Sept. 26)
- WLO Draft response to FDEP memo (Aug. 31)
- WLO Draft chart responding to FDEP memo (Aug. 31)
- Draft MOA between FDEP and EPA (Sept. 25 draft)
- Draft MOA between FDEP and Corps (Sept. 25 draft)
- Draft MOA between FDEP, EPA, and the Services (Sept. 21 draft)
- 2001 MOA between EPA and the Services discussing ESA consultation for the 402 program
- *Or. Natural Res. Council v. Hallock* (D. Or. 2006)
- *American Forest & Paper Ass'n v. EPA* (5th Cir. 1998)

Please let me know if you'd like to see any other documents.

**David Fotouhi**

Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)